



FISCAL MEMORANDUM

HB 1927 - SB 1904

April 12, 2022

SUMMARY OF BILL AS AMENDED (017338): Establishes that the purpose of this part is to regulate the sale and distribution of products containing a hemp-derived cannabinoid.

Defines a “hemp-derived cannabinoid” as:

- A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, that is derived from hemp in a concentration of more than 0.1 percent; or
- A hemp-derived product containing delta-9 tetrahydrocannabinol in a concentration of 0.3 percent or less.

Further includes in such definition, but is not limited to, delta-8 tetrahydrocannabinol. Specifies what is not included in such definition, including, but not limited to Cannabidiol (CBD).

Prohibits any person from knowingly selling or distributing a product containing a hemp-derived cannabinoid to a person under 21 years of age, and further prohibits a person under 21 years of age from possessing, purchasing or accepting a product containing a hemp-derived cannabinoid, or presenting or offering to any person any false fraudulent proof of age for the purpose of purchasing or receiving a product containing a hemp-derived cannabinoid. Requires any retail location offering any products containing hemp-derived cannabinoids to maintain such products behind the counter in an area inaccessible to a customer. Creates a Class A misdemeanor offense for a violation of the aforementioned prohibitions.

Requires the Department of Agriculture (TDA) to enforce these new prohibitions regarding sales of products containing hemp-derived cannabinoids to minors.

Creates a new retail tax on the sale on products containing hemp-derived cannabinoids. Such tax is equal to 5 percent of the sales price per hemp-derived product sold and is effective on January 1, 2023.

Requires the Commissioner of the Department of Revenue (DOR) to administer and collect such tax. Requires that all revenue received by the DOR be deposited into a special account in the General Fund and allocated to the TDA to used exclusively for the regulation of products containing a hemp-derived cannabinoid in this state (for purposes of this note, such fund shall be titled the “Hemp Fund”).

Establishes two new license types, a manufacturer license and a retailer license, applicable for any person or business who manufactures or sells products containing a hemp-derived

cannabinoid. A manufacturer license is \$500 and a retailer license is \$250. Requires any such person or business to acquire such license by January 1, 2023 or the commencement of business, whichever is later. A license is valid for a period of one year and may be renewed annually. Authorizes TDA to charge a renewal fee, to be set by rule. Requires that licensure fee revenue to be allocated to the Tennessee Agriculture Regulatory Fund, to be used exclusively for the administration of this program.

Requires the TDA to administrate and enforce the licensing program. Requires the Department to promulgate rules to effectuate this act.

Authorizes the TDA to deny or revoke licenses and issue civil penalties of up to \$1,000 for each violation of rules, as promulgated by the Department.

Establishes that is a Class A misdemeanor offense to engage in the business of selling or distributing products containing hemp-derived cannabinoids in this state without a valid license. Any product sold in violation of this requirement is subject to seizure and forfeiture.

Establishes testing requirements of all products containing hemp-derived cannabinoids. Requires the TDA to promulgate rules specifying pass/fail action levels for safety and toxicity with respect to such testing and furthermore, requires the Department to maintain a registry of testing laboratories that are qualified to test intermediate manufactured material and finished products containing a hemp-derived cannabinoid.

Establishes child-safety packaging and labeling requirements. Establishes restrictions against advertising which may appeal to minors.

FISCAL IMPACT OF BILL AS AMENDED:

**Increase State Revenue – \$5,000,000/FY22-23/Hemp Fund
Exceeds \$10,000,000/FY23-24 and Subsequent Years/Hemp Fund**

**\$475,000/FY22-23 and Subsequent Years/
Tennessee Agriculture Regulatory Fund**

**Increase State Expenditures – \$96,400/FY22-23/General Fund
\$136,700/FY23-24 and Subsequent Years/General Fund**

**\$375,700/FY22-23/Tennessee Agriculture Regulatory Fund
\$360,100/FY23-24 and Subsequent Years/
Tennessee Agriculture Regulatory Fund**

Other Fiscal Impact – The Department of Agriculture will need additional resources including, but not limited to, employing additional staff. The extent and timing of the needed resources will be dependent on the promulgation of rules and the growth of

the program and cannot be reasonably quantified at this time. Any additional expenditures incurred will be covered through the revenue collected in the Hemp Fund.

Assumptions for the bill as amended:

Revenue

- This legislation creates a 5 percent tax on retail sales of products containing hemp-derived cannabinoids, effective on January 1, 2023.
- Revenue from this tax is required to be distributed into a special account in the General Fund (Hemp Fund) and allocated to the TDA for the regulation of products containing a hemp-derived cannabinoid in this state.
- Based on Fiscal Review Committee staff's research, the market in this state, to which this legislation applies, is valued to exceed \$200,000,000.
- It is assumed that the market value of such products is related to retail sales.
- Due to the fact that sales will begin on January 1, 2023, sales in FY22-23 will be half of the total estimated annual state revenue.
- An increase in state revenue to the Hemp Fund in FY22-23 of \$5,000,000 ($\$200,000,000 \times 5\% \times 50\%$).
- A recurring increase in state revenue to the Hemp Fund of \$10,000,000 ($\$200,000,000 \times 5\%$) in FY23-24 and subsequent years.
- This legislation establishes licensing fees of \$500 for manufacturers and \$250 for retailers.
- All license fee revenue is required to be allocated to the Tennessee Agriculture Regulatory Fund to be used exclusively for the administration of this program.
- The TDA is authorized to charge a renewal fee, to be set by rule. It is assumed that renewal fees will be identical to the initial licensing fees and that all fee revenue will be allocated to the Tennessee Agriculture Regulatory Fund.
- The exact number of manufacturer and retail licenses which will be issued subsequent to this act is unknown.
- For purposes of this fiscal note, it is assumed that there will be 200 manufacturer licenses and 1,500 retail licenses issued statewide.
- An increase in state licensing fee revenue to the Tennessee Agriculture Regulatory Fund in FY22-23 and subsequent years of \$475,000 $[(200 \text{ manufacturers} \times \$500) + (1,500 \text{ retailers} \times \$250)]$.
- This legislation establishes civil penalty fees for violations of this act or rules promulgated by the TDA; however, for purposes of this fiscal note, any such fee revenue is assumed to be not significant.

Expenditures

- Based on information provided by the TDA, the Department will require 2 additional food and dairy inspector 2 positions per grand district, or 6 additional inspector positions statewide.

- There will be a recurring increase in state expenditures of \$360,120 [(\$45,360 salary + \$14,460 benefits + \$200 supplies) x 6 Food and Dairy Inspector-2 positions] in FY22-23 subsequent years.
- There will be a one-time increase in state expenditures for such inspector positions of \$15,600 [(\$1,000 computer + \$1,600 technology/network) x 6 positions].
- Expenditures incurred by the TDA for administration and enforcement of this legislation will be paid for out of the Tennessee Agriculture Regulatory Fund.
- An increase in state expenditures to the Tennessee Agriculture Regulatory Fund in FY22-23 of \$375,720 (\$360,120 + \$15,600).
- An increase in state expenditures to the Tennessee Agriculture Regulatory Fund in FY23-24 and subsequent years of \$360,120.
- Based on information provided by the DOR, the Department will require 2 additional audit positions for this new tax, beginning in FY22-23. Due to the effective tax imposition date of January 1, 2023, it is assumed that the positions will be filled for 8 months, or 66.7 percent, of FY22-23.
- There will be a recurring increase in state expenditures of \$136,692 [(\$52,500 salary + \$15,646 benefits + \$200 supplies) x 2 Tax Auditor-2 positions] in FY23-24 and subsequent years. The increase in state expenditures in FY22-23 will be \$91,174 (\$136,692 x 66.7%).
- There will be a one-time increase in state expenditures for such inspector positions of \$5,200 [(\$1,000 computer + \$1,600 technology/network) x 2 positions] in FY22-23.
- Expenditures incurred by the DOR for administration and enforcement of this legislation will be paid for out of the General Fund.
- An increase in state expenditures from the General Fund in FY22-23 of \$96,374 (\$91,174 + \$5,200).
- An increase in state expenditures from the General Fund in FY23-24 and subsequent years of \$136,692.

Other

- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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